

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Russell A. Brantley, )  
Plaintiff, ) C/A No. 4:17-0814-MBS-TER  
vs. )  
Aiken County Detention Center, )  
Southern Health Partners, James Staten, )  
Lt. Hettich, Captain Gallum, )  
Defendants. )  
\_\_\_\_\_  
)

**OPINION AND ORDER**

Plaintiff Russell A. Brantley is an inmate housed at the Aiken County Detention Center (ACDC) in Aiken, South Carolina. Plaintiff proceeding pro se and in forma pauperis, filed a complaint on March 27, 2017, alleging that he fell out of a top bunk, injured his collarbone, and requires surgery. Plaintiff asserts that he was denied medical care in violation of his rights under the Eighth Amendment. Plaintiff brings this action pursuant to 42 U.S.C. § 1983. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Thomas E. Rogers, III for pretrial handling.

This matter is before the court on motion to quash service/dismiss for ineffective service of process as to Defendant James Staten, which motion was filed June 23, 2017. Defendant Staten asserts that service of the summons and complaint was made by delivery to the ACDC, and that Lt. Shawn Carlen accepted service on behalf of this Defendant. Defendant Staten contends he was no longer working at the Aiken County Detention Center at the time of service, and that Lt. Carlen was not authorized to accept service on his behalf. Defendant Staten moves the court to dismiss the action as to him pursuant to Fed. R. Civ. P. 12(b)(5).

On July 20, 2017, the Magistrate Judge issued a Report and Recommendation in which he

noted that Plaintiff must rely on the United States Marshal's Service to serve his summons and complaint. The Magistrate Judge noted that it was through no fault of Plaintiff that proper service was not effected. Accordingly, the Magistrate Judge recommended that the motion to dismiss be denied at this time. No parties filed objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). This court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). This court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. Id. In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must "only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record. The court concurs in the Report and Recommendation and incorporates it herein by reference. Defendant Staten's motion to quash and dismiss (ECF No. 34) is **denied** without prejudice.

The court is informed that, subsequent to the issuance of the Magistrate Judge's Report and Recommendation, the United States Marshal's Service again served attempted service on Defendant James Staten by providing a copy of the summons and complaint to Lt. Shawn Carlen. ECF No. 46.

**THE UNITED STATES MARSHAL'S SERVICE IS DIRECTED TO CONTACT DEFENDANT STATEN'S COUNSEL, AMY HARMON GEDDES AND/OR JAMES G. LONG, III, AT NEXSEN PRUET, LLC, 1230 MAIN STREET, SUITE 700, COLUMBIA,**

**SOUTH CAROLINA 20202, TELEPHONE 803-771-8900 TO ASCERTAIN IF COUNSEL  
WILL ACCEPT SERVICE OR TO OBTAIN AN ADDRESS FOR DEFENDANT STATEN.**

The case is recommitted to the Magistrate Judge for further pretrial handling.

**IT IS SO ORDERED.**

/s/ Margaret B. Seymour  
Senior United States District Judge

Columbia, South Carolina

August 9, 2017